

Customer No. 32,127
Attorney Docket No. 01-1013

REMARKS

I. Status of the Claims

In the Advisory Action¹ mailed November 2, 2005, the Examiner withdrew the objection to claim 26 under 37 C.F.R. § 1.75(c) and maintained the rejection of claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,058,163 to Pattison et al. ("Pattison") in view of U.S. Patent No. 6,535,596 to Frey et al. ("Frey").

By this amendment, claims 1, 8, 22, 26, 27, 29, and 35 have been amended.

Claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-37 are currently pending.

II. The Section 103(a) Rejection of Claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31

Applicant respectfully traverses the rejection of claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31 under 35 U.S.C. § 103(a) as being unpatentable over Pattison in view of Frey. No *prima facie* case of obviousness has been established with respect to claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31 for at least the reason that the references, taken alone or in combination, do not teach or suggest each and every element recited in the claims.

In the Advisory Action, the Examiner alleged that "determining whether to establish the call connection," as recited in claims 1, 8, and 22, is inherent in Pattison because "after the information is received and recorded (col. 2, lines 3-6) a call (which reads on the monitoring session) must be established." See Advisory Action at 2.

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine

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However, this statement is illogical because a system that *must establish* a call connection necessarily omits "*determining whether to establish [a] call connection,*" as claimed (emphasis added). Moreover, the Examiner appears to be correct in asserting that a call connection *must* be established in Pattison because Pattison describes an *Automatic Call Distributor (ACD)* (12) that "directs the interconnection of various calls received at the call center to selected agents depending on the *automatic* scheduling and monitoring functions performed by platform (16)." Pattison at col. 5, lines 15-20 (emphases added). Automatically directing the interconnection of calls does not constitute "determining whether to establish the call connection," as claimed.

The Examiner further asserted that "analyzing the recorded dial stream information to generate a result for the at least one analysis request; and providing the result to the requesting party," as recited in independent claim 1, "*may possibly read on Frey's* teaching of having . . . an access module (117) analyzing the entered information and providing a result to this entered information." See Advisory Action at 3 (citing Frey at col. 6, lines 43-59). Applicant respectfully disagrees with this assertion. Frey's access module (117) recognizes and responds to keypad inputs from either a *calling party* or a *called party* (see Frey, col. 6, lines 32-50). However, unlike independent claim 1, Frey makes no mention of a *requesting party* (i.e., a party, other than the calling party or called party, to whom at least one analysis request is provided). Independent claims 8, 22, and 27, although each of different scope, recite similar claim elements and similarly distinguish between "a calling party," "a called party," and "a requesting party" (or "recipient," as recited in claim 27).

references) is not a concession by Applicant that such requirements have been met,

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Moreover, the Examiner asserted that "the claimed limitation . . . is a broad and general limitation." See Advisory Action at 2. Applicant respectfully submits that regardless of whether Applicant's claims are broad and general, or not, no *prima facie* case of obviousness has been established against the claims.

Finally, there is no motivation for combining Frey with Pattison. The Examiner asserted that motivation can be found in providing "speed and convenience." See Final Office Action, page 3. Applicant cannot meaningfully respond to this statement because it points to no evidence in the prior art to support combining the references. Nearly all inventions in this art can be said to have been motivated by "speed and convenience." Therefore, to allow an Examiner to rely on this as a motivation without specific citations to the prior art would deny the Applicant a fair opportunity to rebut the *prima facie* case of obviousness established by the Examiner.

Accordingly, the 35 U.S.C. § 103(a) rejection of independent claims 1, 8, 22, and 27, and dependent claims 2, 3, 5, 7-10, 12, 14, 22, 24, and 26-31, which depend from one of independent claims 1, 8, and 22, should be withdrawn.

III. The Section 103(a) Rejection of Claims 32-37

Applicant respectfully traverses the rejection of claims 32-37 under 35 U.S.C. § 103(a) as being unpatentable over Pattison in view of Frey. No *prima facie* case of obviousness has been established with respect to claims 32-37 for at least the reason that the references, taken alone or in combination, do not teach or suggest each and every element recited in the claims. For example, independent claim 32 recites, among other things:

and Applicant reserves the right to analyze and dispute such in the future.

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receiving a call connection request, the call
connection request for a call connection between a first party
and a second party, the first party permitting dial stream
recording;

recording dial stream information associated with the
call connection request in a record associated with the first
party.

The Examiner has shown no teaching or suggestion in the prior art of these claim elements. The rejection also fails to establish a legitimate motivation to combine the references. Should the Examiner continue to reject claim 32 as unpatentable under 35 U.S.C. § 103(a), Applicant requests that the Examiner provide specific citations to the references relied upon to support such a rejection.

In the Advisory Action, the Examiner alleged that "all the recited limitations of claim 32 are substantially the same limitations recited in independent claim 1," and "[t]herefore, independent claim 32 can be rejected for the same reasons." See Advisory Action at 3. Applicant respectfully disagrees.

For example, independent claim 32 recites, among other things: "recording dial stream information . . . in a record associated with the first party." Unlike claim 32, claim 1 does not recite a "record associated with a first party." Accordingly, the 35 U.S.C. § 103(a) rejection of independent claim 32, and dependent claims 33-37, which depend from independent claim 32, should be withdrawn.

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Conclusion


In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to our deposit account 07-2347.

Respectfully submitted,

Dated: December 13, 2005

By: _____


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